

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

)	
USGEN NEW ENGLAND, INC.)	
)	
Plaintiff,)	No. 04-12225 (RCL)
)	
v.)	AGREED MOTION TO EXTEND
)	TIME TO FILE OPPOSITION
MICHAEL O. LEAVITT,)	TO DEFENDANTS' MOTION
in his capacity as Administrator)	TO DISMISS
of the U.S. Environmental Protection)	
Agency, et al.)	
)	
Defendants.)	
)	

Plaintiff hereby respectfully moves this Court to extend the time by two days for the Plaintiff to file its Opposition to Defendants' Motion to Dismiss pursuant to Local Rule 7.1 until January 12, 2005:

1. Defendants Michael O. Leavitt, Administrator of the U.S. Environmental Protection Agency, the U.S. Environmental Protection Agency ("EPA"), and Region I of the EPA (collectively "Defendants"), filed their Motion to Dismiss on December 27, 2004, requesting that this Court dismiss the Complaint of USGen New England, Inc. pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for lack of subject matter jurisdiction and for failure to state a claim.

2. The Opposition to the Motion to Dismiss is currently due by January 10, 2005, pursuant to local rule 7.1(B)(2). No scheduling order has been entered in this matter, and no trial date has been set.

3. The Plaintiff's need for a brief extension of the time to respond arises in connection with the recent acquisition of Brayton Point Station, the facility whose permit appeal

is at issue in this matter, by Dominion Energy Brayton Point, LLC. The Plaintiff and Defendants have conferred, and all agree to extend the date by which Plaintiff will file its Opposition to Defendants' Motion to Dismiss to **January 12, 2005**. The parties do not believe that they will be prejudiced by this extension, and note that no other submissions have been made and no proceedings have been scheduled in this matter that would be affected by the proposed extension.

Respectfully submitted,

/s/ John M. Stevens
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John M. Stevens (No. 30912)
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Attorneys for Plaintiff

Dated: January 10, 2005

CERTIFICATION PURSUANT TO LOCAL RULES 7.1(A)(2)

I, John M. Stevens, hereby certify that on January 10, 2005, counsel for the Plaintiff conferred with counsel for the Defendants. Defendants agreed to extend the date by which Plaintiff will file its Opposition to Defendants' Motion to Dismiss to January 12, 2005.

/s/ John M. Stevens
John M. Stevens

Certificate of Service

I hereby certify that a true copy of the Agreed Motion to Extend Time to File Opposition to Defendants' Motion to Dismiss was served by electronic mailing and mailing first class and postage prepaid to the following counsel of record: Heather E. Gange, U.S. Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026-3986.

/s/ John M. Stevens

John M. Stevens